

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

REBECCA BYBEE,

Plaintiff

v.

C-1-01-623

THE PROCTER & GAMBLE
COMPANY, *et al.*,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 41), plaintiff's objections (doc. no. 42) and defendants' response (doc. no. 43). The Magistrate Judge recommended that plaintiff's Motion to Dismiss Plaintiff's Breach of Fiduciary Claim (doc. no. 33) should be granted and plaintiff's remaining claim for denial of benefits is not subject to discovery beyond the administrative record.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby **ADOPTS AND INCORPORATES HEREIN BY REFERENCE** the Report and Recommendation of the United States Magistrate Judge (doc. no. 41). Plaintiff's Motion to Dismiss Plaintiff's Breach of Fiduciary Claim (doc. no. 33) is **GRANTED** and plaintiff's remaining claim for denial of benefits is not subject to discovery beyond the administrative record. Defendant's objection (doc. no. 33) to the Magistrate Judge's Order (doc. no. 32) granting plaintiff's Motion to Compel is now **MOOT**.

This matter is **RECOMMITTED** to the United States Magistrate Judge for further proceedings according to law.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court